SBCivil Writ Petition No.4206/1996
(1) Gram Sabha Gramdani Gram Kathbada, Distt.Bhilwara v. State of Rajasthan & Ors.

SBCivil Writ Petition No.728/1997
(2) Gram Sabha Gramdani, Gram Hem Niwas v. State of Rajasthan & Ors.

SBCivil Writ Petition No.2897/1998
(3) Gram Sabha Gramdani Gram Makredi v. State of Rajasthan & Ors.

Date of Order :: 19th April, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Tribhuvan Gupta]
Mr. Gopal Acharya] for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.
Mr. M.S.Singhvi, for the respondents.

....

In these three petitions for writ validity of the order dated 30.10.1996 passed by Government of Rajasthan exercising powers under Section 32 of the Rajasthan Gramdan Act, 1971 (hereinafter referred to as “the Act of 1971”) is under challenge on common facts and grounds, therefore, these are disposed of by this common order.

The facts in brief required to be noticed are that villages Hemniwas, Makredi and Kathbada in District Bhilwara were declared as Gramdan villages by Government of Rajasthan under the Rajasthan Gramdan Act, 1960 (hereinafter referred to as “the Act of 1960”) that was replaced by the Rajasthan Gramdan Act of 1971. In all the three villages referred above,

Gram Sabha was constituted by virtue of Section 13(2) of the Act of 1960.

The grievance of the petitioner in the instant petitions for writ is that the State Government by order impugned dated 30.10.1996 divested the Gram Sabha from all its powers with regard to entire land of Gramdan villages concerned.

While giving challenge to the order dated 30.10.1996 it is contended by counsel for the petitioner that under the Act of 1971 the State Government is having no authority to divest management of lands used and vested with Gram Sabha.

A reply to the writ petition has been filed on behalf of the respondents stating therein that Gram Sabha was not managing the lands vested with it properly, therefore, while exercising the powers under Section 32 of the Act of 1971 the State Government divested the Gram Sabha from management of lands used and vested with it.

Heard counsel for the parties.

Under the Act of 1971 the land donated to Gramdan vests in Gram Sabha. The unoccupied land also vests with Gram Sabha by virtue of Section 31 of the Act of 1971. The Gram Sabha is empowered to administer

and manage the land vested with it. The State Government under Section 32 of the Act of 1971 is empowered to divest Gram Sabha from management of lands used vested with it under Section 31 of the Act of 1971. Section 32 of the Act of 1971 reads as under:-

> "Sec.32.Divesting Gram Sabha of management of lands used vested under Sec.31.--Notwithstanding anything contained in sub-sec.(1) of Sec.31, the State Government may, at any time, if it consider necessary, divest the Gram Sabha of the management of the whole or any part of the lands mentioned in the said sub-section, by notification in the Official Gazette, and thereafter all rights of the Gram Sabha in such lands shall cease."

From reading of Section 32 as referred above it is apparent that the State Government is empowered to cease all rights of Gram Sabha with regard to land vested with it in accordance with sub-sec.(1) of Sec.31 of the Act of 1971. Sub-sec.(1) of Section 31 of the Act of 1971 reads as follows:-

> "Sec.31.Vesting of management of other unoccupied lands of the State Government in Gram Sabha.--(1)Subject to any general or special order of the State Government where the whole of a village entered as such in the revenue records has been declared as a Gramdan village, the management of the unoccupied land of the State Government in the said village shall vest in the Gram

> Sabha and the Gram Sabha shall have the power to improve such land without obtaining any permission from any authority and shall further have the power to get the same cultivated or otherwise utilised for agricultural purposes in any manner it thinks fit either by itself or by granting lease of the whole or any part thereof to any person on such terms and conditions as it thinks fit."

By force of provisions of sub-sec.(1) of Section 31 of the Act of 1971 the management of unoccupied lands of the State Government situated in a Gramdan village vest with Gram Sabha and Gram Sabha is having power to improve such land without obtaining any permission from any authority. Under Section 32 of the Act of 1971 the State Government is empowered only to cease management of its unoccupied land vested with Gram Sabha in pursuant to sub-sec.(1) of Section 31 of the Act of 1971. No other land except unoccupied land of the State Government can be ceased by the Government under Section 32 of the Act of 1971.

In the instant matters by order impugned dated 30.10.1996 the Government of Rajasthan has divested the Gram Sabha from management and all other powers with regard to entire land of Gramdan villages. Under the Act of 1971 the Government is not having such powers. The powers of the Government to cease management of Gram Sabha is confined to unoccupied

land of the State Government that vested with Gram Sabha in pursuant to sub-sec.(1) of Section 31 of the Act of 1971. In view of it, the seizure of all the powers of Gram Sabha with regard to entire land of the Gramdan villages by order impugned dated 30.10.1996 is without jurisdiction. The order impugned, therefore, deserves to be quashed.

Accordingly, these petitions for writ are allowed. The order impugned dated 30.10.1996 is quashed. However, it is made clear that the Government may issue fresh orders in accordance with Section 32 of the Act of 1971 for divesting Gram Sabha from the management of unoccupied State Government land vested with it in pursuant to sub-sec.(1) of Section 31 of the Act of 1971.

(GOVIND MATHUR),J.

kkm/ps.